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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,534	04/14/2004	Tsun-Chi Liao	2450-0671PUS1	4457
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Joe McKinney Muncy PO Box 1364 Fairfax, VA 22038-1364			EXAMINER QIN, JIANCHUN	
			ART UNIT	PAPER NUMBER
			2837	
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			12/11/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/823,534	<b>Applicant(s)</b> LIAO, TSUN-CHI	
	<b>Examiner</b> Jianchun Qin	<b>Art Unit</b> 2837	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hipwood (U. S. Pat. No. 1,429,428) in view of Yanagisawa (U. S. Pat. No. 5881981).

Regarding claim 1, Hipwood discloses an elastomeric spring installed to the tip of a stand (Figs. 1-3), comprising: a base (8) made of an elastic material (page 1, lines 51-54) and having a space mode substantially in an axial symmetry (Figs. 1-3); an installation space (7) disposed at the top of said base (Figs. 1-2), disposed in said installation space, for inserting and securing the tip of said stand (page 1, lines 48-51); a protruded middle section (9 and the adjacent portion), extending outwardly from a lower section of said base in a spherical shape formed by a shell wall (Fig. 2); said protruded middle section having a hollow center (13) formed in the shape of a truncated sphere (Fig. 2; page 1, lines 71-73); a circular opening (Figs. 2-3, the opening formed by 12) in said shell wall having a diameter smaller than a diameter of said hollow center (Figs. 2-3), disposed only at a bottom of said protruded middle section for contacting a floor and in communication with said hollow center (Figs. 2-3; page 1, lines 65-89).

Hipwood does not mention expressly: said elastomeric spring is installed to an end of a musical instrument stand.

Yanagisawa teaches an elastomeric spring installed to an end of a musical instrument stand (Figs. 1-5; col. 1, lines 30-40).

In view of the teaching of Yanagisawa, one having ordinary skill in the art would be able to apply the invention of Hipwood to an end of a musical instrument stand, in order to provide a spring tip for a stand that can produce a suction action to hold the tip firmly to the floor, pavement or other support thus preventing it from slipping (Hipwood, page 1, lines 80-86), and which is efficient to isolate vibrations generated from a musical instrument (Yanagisawa, col. 2, lines 21-24).

Regarding claim 2, Hipwood discloses: wherein said installation space has a shape designed according to the appearance of the tip of the stand (Figs. 1-3).

Hipwood does not mention expressly: said stand is a musical instrument stand.

Yanagisawa teaches installing an elastomeric spring to an end of a musical instrument stand (Spec. page 1, lines 7-25 and page 2, lines 1-5).

In view of the teaching of Yanagisawa, one having ordinary skill in the art would be able to merely apply the invention of Hipwood to an end of a musical instrument stand in order to provide a spring tip for a stand that can produce a suction action to hold the tip firmly to the floor, pavement or other support thus preventing it from slipping (Hipwood, page 1, lines 80-86). The mere application of a known technique to a specific instance by those skilled in the art would have been obvious.

Regarding claim 3, Hipwood discloses: wherein said installation space has a size slightly smaller than the external diameter of said tip of the stand, thereby said stand is pressed tightly into said installation space by the elasticity of said base (Figs. 1-3; page 1, lines 47-51).

Regarding claim 4, Hipwood discloses: wherein said elastic material is rubber (page 1, lines 51-52 and 65-67).

Regarding claim 5, Hipwood discloses: wherein said truncated sphere is surrounded by said shell wall (Figs. 2-3).

Regarding claim 6, Hipwood discloses: wherein said circular opening in said shell wall increases slip resistance (page 1, lines 80-86).

### ***Conclusion***

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing

***Response to Arguments***

4. Applicant's arguments received 02/12/08 with respect to claims 1-6 have been considered but they are not persuasive.

In reference to the Hipwood patent, Applicant argued that "[t]he tip 8 is for a crutch, not a musical instrument". The argument is not persuasive. The Examiner's position is that Hipwood teaches a spring base for a stand including all the features recited in claims 1-6 of the instant application except the spring base is used for an musical instrument. Yanagisawa teaches an elastomeric spring base installed to an end of a musical instrument stand. The combination of the teachings of Hipwood and Yanagisawa reads on the claims. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply the invention of Hipwood to an end of a musical instrument stand, as motivated by Yanagisawa, in order to provide a spring tip for a stand that can produce a suction action to hold the tip firmly to the floor, pavement or other support thus preventing it from slipping (Hipewood, page 1, lines 80-86), and which is efficient to isolate vibrations generated from a musical instrument (Yanagisawa, col. 2, lines 21-24). The combination is proper. The rejections are maintained.

Applicant's arguments with respect to the claimed shape of said middle section are not persuasive. The Examiner's position is that, giving the claims the broadest reasonable interpretation, the Hipwood patent does disclose or teach or suggest a spring base having a protruded middle section that is shaped as what is recited in the

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claims of the instant application. For example, the teaching of Hipwood includes: a protruded middle section (Fig. 2; the portion adjacent 9), extending outwardly from a **lower section** (emphasis is added) of said base in a spherical shape formed by a shell wall (Fig. 2); a hollow center (13) formed in the shape of a truncated sphere (Fig. 2; page 1, lines 71-73; note: there is no detailed recitation of how the sphere is truncated in claim 1); and a circular opening (Figs. 2-3, the opening formed by 12) in said shell wall having a diameter (i.e., the shortest diameter of the opening) smaller than a diameter of said hollow center (Figs. 2-3), disposed only at a bottom of said protruded middle section for contacting a floor and in communication with said hollow center (Figs. 2-3; page 1, lines 65-89). Applicants' reliance upon the specification in this regard is noted. However, the features in the specification to which Applicant refers are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The rest of the Applicant's arguments regarding the dependent claims are reliant upon the issue discussed above, and are deemed to be non-persuasive as well for the reasons provided above for independent claim 1.

#### **Contact Information**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-5981. The examiner can normally be reached on 8am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on (571) 272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Q./

Examiner, Art Unit 2837

/Lincoln Donovan/

Supervisory Patent Examiner, Art Unit 2837